

1250



AF/648  
Efm

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450

Name Barbara Muller Signature Barbara Muller Date 5-13-04

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Bett, Andrew, et al.	
Serial No.:	09/890,836 - Case No.: 20377YP	Art Unit: 1648
Filed:	August 3, 2001	Examiner: Hill, Myron G.
For:	IMPROVED HELPER DEPENDENT VECTOR SYSTEM FOR GENE THERAPY	

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, VA 22313-1450

INTERVIEW SUMMARY

Sir:

In compliance with MPEP 713.04, Applicants provide this summary of the telephonic interview conducted with the Examiner and his supervisor, James Housel, on April 13, 2004 in the above captioned matter. In that a response to the last Office Action had already been submitted prior to receipt of the Examiner's Interview Summary dated April 20, 2004, the date for submission of Applicants' Interview Summary is one month from the mailing of said Interview Summary making this response timely. Applicants also enclose herewith a completed copy of PTOL-413A.

Prior to said telephonic interview, Applicants sent to the Examiner via facsimile proposed claim amendments for discussion purposes. The proposed claims included amendments to claims 1, 8 and 10 that Applicant believed would further distinguish the claimed invention over the prior art cited in the Final Office Action dated January 14, 2004 (Hardy et al., WO 97/32481).

During the telephonic interview Applicants presented arguments that the low homology packaging signal cassette of the claimed invention was not anticipated nor made obvious by the teachings of Hardy et al. Discussion was held as to the reduced contiguous sequence homology of the claimed invention relative to the wild-type adenovirus packaging signal, that the contiguous sequence homology occurred between or other than at the position of the A elements and that the variants in the consensus sequence of said A elements of the claimed invention differed from those taught by the prior art.

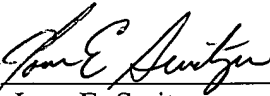
The examiner and his supervisor suggested that the incorporation of the dependent claim elements of claim 8 into claim 1 and the inclusion of specific language in claim 6 as to the position of the contiguous sequence homology as other than the A elements might provide the needed distinction from the prior art. No agreement was reached as to the allowability of the proposed claim amendments.

Applicants prepared a timely response to the Final Office Action which was sent via facsimile to the USPTO as well as to the examiner.

CONDITIONAL PETITION

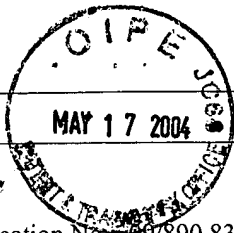
Applicants hereby make a Conditional Petition for any relief available to correct any defect in connection with this filing, or any defect remaining in this application after this filing. The Commissioner is authorized to charge deposit account 13-2755 for the petition fee and any other fee(s) required to effect this Conditional Petition.

Respectfully submitted,

By   
Joan E. Switzer  
Reg. No. 34,740  
Attorney for Applicant

MERCK & CO., INC.  
P.O. Box 2000  
Rahway, New Jersey 07065-0907  
(732) 594-5616

Date: May 13, 2004



### Applicant Initiated Interview Request Form

Application No.: 09/890,836 First Named Applicant: Andrew Bett

Examiner: Myron G. Hill Art Unit : 1648 Status of Application: Final Office Action

**Tentative Participants:**

(1) Joan E. Switzer (2) Examiner Hill

(3) Primary Examiner Stucker (4) \_\_\_\_\_

Proposed Date of Interview: 4/13/04 Proposed Time: 12:00 PM (AM/PM)

**Type of Interview Requested:**

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☒ YES ☐ NO

If yes, provide brief description: Proposed claim amendments

### Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>102</u>	<u>1-5, 7</u>	<u>Hardy</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) <u>102</u>	<u>6, 8, 9-12</u>	<u>Hardy</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Continuation Sheet Attached

**Brief Description of Arguments to be Presented:**

Low homology packaging signal of claimed invention differs from prior art as to contiguous sequence and location  
\_\_\_\_\_  
\_\_\_\_\_

An interview was conducted on the above-identified application on \_\_\_\_\_

**NOTE:**

This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

*Joan E. Switzer*  
(Applicant/Applicant's Representative Signature)

\_\_\_\_\_  
(Examiner/SPE Signature)